

*Before the*  
**Federal Communications Commission**  
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b)  
Table of Allotments,  
FM Broadcast Stations.  
(Olustee, Oklahoma)

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MB Docket No. 04-362  
RM-11066

APR 22 2005

**REPORT AND ORDER**  
**(Proceeding Terminated)**

**Adopted: April 25, 2005****Released: April 27, 2005**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a *Notice of Proposed Rule Making*<sup>1</sup> issued in response to a petition for rule making filed by Charles Crawford, requesting the allotment of Channel 252A at Olustee, Oklahoma, as the community's first local service.<sup>2</sup> Charles Crawford filed comments on September 29, 2004, but failed to state his continuing interest in pursuing the allotment, and his intention to apply for a construction permit. No other comments or counterproposals were received.

2. A showing of continuing interest is required before a channel can be allotted. It is the Commission's policy to refrain from making an allotment to a community absent an expression of interest.<sup>3</sup> Charles Crawford states in his comments, "Should this petition be granted and Channel 251C2 allotted to Arapaho, Oklahoma, Petitioner will apply for Channel 251C2, and after it is authorized, will promptly construct the new facility." This is not a valid expression of interest because the instant proposal in MB Docket No. 04-362, RM-11066 pertains to Charles Crawford's request for Channel 252A at Olustee, Oklahoma. In his comments, Charles Crawford refers only to Channel 251C2 at Arapaho, Oklahoma and provides facts concerning Arapaho's community status.<sup>4</sup>

3. Charles Crawford's petition for rule making for 251C2 at Arapaho, Oklahoma was returned as unacceptable for consideration on October 20, 2004, before the comment deadline of November 8, 2004 for the instant Olustee rulemaking. As noted above, Charles Crawford filed comments in the Olustee proceeding on September 29, 2004. As a result of either carelessness or the numerous

<sup>1</sup> *Olustee, Oklahoma*, 19 FCC Rcd 17813 (MB 2004).

<sup>2</sup> To accommodate the Olustee proposal, Charles Crawford also proposed new reference coordinates for vacant Channel 253C3 at Wellington, Texas. *Olustee, Oklahoma*, 19 FCC Rcd at 17813.

<sup>3</sup> "The proponent of a proposed allotment is . . . expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request." *Olustee, Oklahoma*, 19 FCC Rcd at 17816.

<sup>4</sup> Charles Crawford states in his comments that "Arapaho, Oklahoma is an incorporated community with a population of 748 people. Arapaho has its own post office . . . Daniel Brownfield Chief of Police . . ." In contrast, Charles Crawford stated in his petition for rule making for Channel 252A at Olustee, Oklahoma that, "Olustee, Oklahoma is an incorporated community with a population of 680 people."

petitions for rule making filed by Charles Crawford, the comments filed in this proceeding did not include the required expression of interest in applying for Channel 252A at Olustee. Furthermore, Charles Crawford had ample opportunity to file corrected comments prior to the deadline. This does not represent the degree of diligence that we expect of parties filing applications and petitions before the Commission. Therefore, because comments were not received by Charles Crawford supporting the allotment of Channel 252A at Olustee, Oklahoma, or any other party, the petition for rule making is hereby dismissed.

4. Accordingly, IT IS ORDERED, That, the petition for rule making filed by Charles Crawford, IS DISMISSED.

5. This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Report and Order to the Government Accountability Office, pursuant to the Congressional Review Act, *see* 5 U.S.C. Section 801(a)(1)(A), because the proposed rule was dismissed.)

6. IT IS FURTHER ORDERED, That, this proceeding IS TERMINATED.

7. For further information concerning this proceeding, contact Helen McLean, Media Bureau (202) 418-2180

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau